

AMENDED IN SENATE JUNE 19, 2008

AMENDED IN SENATE MAY 19, 2008

AMENDED IN ASSEMBLY JANUARY 9, 2008

AMENDED IN ASSEMBLY APRIL 9, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 572

Introduced by Assembly Member Berg

February 21, 2007

An act to amend Sections 1570.2, 1570.7, 1570.9, ~~and 1574.5~~ 1574.5, ~~and 1578.1~~ of the Health and Safety Code, and to amend Sections 14521, 14550, and 14550.5 of the Welfare and Institutions Code, relating to adult day health care.

LEGISLATIVE COUNSEL'S DIGEST

AB 572, as amended, Berg. Adult day health care services.

The California Adult Day Health Care Act provides for the licensure and regulation of adult day health centers, with administrative responsibility for this program shared between the State Department of Public Health and the California Department of Aging pursuant to an interagency agreement. The Adult Day Health Medi-Cal Law establishes adult day health care services as a Medi-Cal benefit for Medi-Cal beneficiaries who meet certain criteria.

Existing law requires all adult day health care centers to maintain compliance with licensing and certification requirements, and provides that these requirements shall not prohibit program flexibility for the use of alternate concepts, as described, or pilot projects, provided these alternatives or pilot projects are carried out in accordance with certain

guidelines, and that the adult day health care center receives written approval from the department.

The bill would require the department to provide written notice to the adult day health care center, within 30 calendar days of receiving the request to use an alternative or pilot project, informing the center of, and the reasons for, the department's decision. The bill would provide that the request shall be deemed approved if the department fails to respond to the request within 30 calendar days, *except as specified. The bill would also authorize the department to rescind any request that is deemed approved after the 30-calendar-day period has lapsed, and would require the department to provide the requester with written notification of its determination of, and the reasons for, the rescission.*

The bill would also impose new qualification requirements on specified adult day health care center employees, and would require all adult day health care centers to provide for various vacancy policies, as provided.

~~The California Adult Day Health Care Act provides for the licensure and regulation of adult day health centers, with administrative responsibility for this program shared between the State Department of Public Health (hereafter, the department) and the California Department of Aging pursuant to an interagency agreement. The Adult Day Health Medi-Cal Law establishes adult day health care services as a Medi-Cal benefit for Medi-Cal beneficiaries who meet certain criteria.~~

Existing law provides that if an adult day health care center licensee provides adult day care or adult day support center services, the adult day health care license shall be the only license required to provide these additional services.

This bill would revise this provision to, instead, apply to an adult day health care center licensee that provides adult day program or Alzheimer's day care resource center services.

The bill would also provide that an adult day health care center licensee shall not be required to meet the licensing and certification requirements of the adult day health care center program during extended hours, as defined, if the center operates an adult day program, or Alzheimer's day care resource center, or both.

Existing law requires that adult day health care centers offer specified care services to each participant during each day of the participant's attendance at the center, including at least one meal per day, as prescribed.

This bill would specify that the meal must be provided unless the participant declines the meal or medical contraindications exist that prohibit the ingestion of the meal.

Existing law also requires that an adult day health care center provide transportation services to and from the homes of participants.

This bill would provide that these services may exceed one hour, unless medically contraindicated, in order to ensure regular and planned attendance at the adult day health care center.

The act also requires that adult day health care centers have written procedures for dealing with emergency situations, including specified information.

This bill would require that adult day health care centers have both written policies and procedures for dealing with natural disaster and emergency situations.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1570.2 of the Health and Safety Code is
2 amended to read:

3 1570.2. The Legislature hereby finds and declares that there
4 exists a pattern of overutilization of long-term institutional care
5 for elderly persons or individuals with disabilities, and that there
6 is an urgent need to establish and to continue a community-based
7 system of quality adult day health care which will enable elderly
8 persons or individuals with disabilities to maintain maximum
9 independence. While recognizing that there continues to be a
10 substantial need for facilities providing custodial care, overreliance
11 on this type of care has proven to be a costly panacea in both
12 financial and human terms, often traumatic, and destructive of
13 continuing family relationships and the capacity for independent
14 living.

15 It is, therefore, the intent of the Legislature in enacting this
16 chapter and related provisions to provide for the development of
17 policies and programs that will accomplish the following:

18 (a) Ensure that elderly persons and individuals with disabilities
19 are not institutionalized inappropriately or prematurely.

20 (b) Provide a viable alternative to institutionalization for those
21 elderly persons and individuals with disabilities who are capable

1 of living at home with the aid of appropriate health care or
2 rehabilitative and social services.

3 (c) Establish adult day health centers in the community for this
4 purpose, that will be easily accessible to all participants, including
5 economically disadvantaged elderly persons and individuals with
6 disabilities, and that will provide outpatient health, rehabilitative,
7 and social services necessary to permit the participants to maintain
8 personal independence and lead meaningful lives.

9 (d) Include the services of adult day health centers as a benefit
10 under the Medi-Cal Act, that shall be an initial and integral part
11 in the development of an overall plan for a coordinated,
12 comprehensive continuum of optional long-term care services
13 based upon appropriate need.

14 (e) Establish a rural alternative adult day health care program
15 designed to meet the special needs and requirements of rural areas
16 to enable the implementation of subdivisions (a) through (d),
17 inclusive, for all Californians in need of those services.

18 (f) Ensure that all laws, regulations, and procedures governing
19 adult day health care be enforced equitably regardless of
20 organizational sponsorship and that all program flexibility
21 provisions be administered equitably.

22 SEC. 2. Section 1570.7 of the Health and Safety Code is
23 amended to read:

24 1570.7. As used in this chapter and in any regulations
25 promulgated thereunder:

26 (a) "Adult day health care" means an organized day program
27 of therapeutic, social, and skilled nursing health activities and
28 services provided pursuant to this chapter to elderly persons or
29 individuals with disabilities with functional impairments, either
30 physical or mental, for the purpose of restoring or maintaining
31 optimal capacity for self-care. Provided on a short-term basis, adult
32 day health care serves as a transition from a health facility or home
33 health program to personal independence. Provided on a long-term
34 basis, it serves as an alternative to institutionalization in a long-term
35 health care facility when 24-hour skilled nursing care is not
36 medically necessary or viewed as desirable by the recipient or his
37 or her family.

38 (b) "Adult day health center" or "adult day health care center"
39 means a licensed and certified facility that provides adult day health
40 care.

1 (c) “Core staff” includes the positions of program director,
2 registered nurse, social worker, activity director, and program aide.

3 (d) “Department” or “state department” means the State
4 Department of Public Health.

5 (e) “Director” means the Director of Public Health.

6 (f) “Elderly” or “older person” means a person 55 years of age
7 or older, but also includes other adults who are chronically ill or
8 impaired and who would benefit from adult day health care.

9 (g) “Extended hours” means those hours of operation prior to
10 or following the ~~required minimum~~ adult day health care program
11 hours of service, as designated by the adult day health care center
12 in its plan of operation, *during which the adult day health care*
13 *center may operate an adult day program, or an Alzheimer’s day*
14 *care resource center, or both.*

15 (h) “Hours of service” means the program hours defined and
16 posted by the adult day health care center for the provision of core
17 services, *pursuant to Section 14550.5 of the Welfare and*
18 *Institutions Code*, which shall be no less than four hours, ~~and~~
19 ~~extended hours, if any, during which the adult day health care~~
20 ~~program or alzheimer’s day care resource center program is~~
21 ~~operated.~~

22 (i) “Individual plan of care” means a plan designed to provide
23 recipients of adult day health care with appropriate treatment in
24 accordance with the assessed needs of each individual.

25 (j) “License” means a basic permit to operate an adult day health
26 care center. With respect to a health facility licensed pursuant to
27 Chapter 2 (commencing with Section 1250), “license” means a
28 special permit, as defined by Section 1251.5, empowering the
29 health facility to provide adult day health care services.

30 (k) “Long-term absence” or “long-term vacancy” means an
31 absence or vacancy lasting, or likely to last, more than one month.
32 An adult day health care center’s policies and procedures shall be
33 specific regarding coverage in the situation for long-term absences
34 or vacancies.

35 (l) “Maintenance program” means procedures and exercises
36 that are provided to a participant, pursuant to Section 1580, in
37 order to generally maintain existing function. These procedures
38 and exercises are planned by a licensed or certified therapist and
39 are provided by a person who has been trained by a licensed or

1 certified therapist and who is directly supervised by a nurse or by
2 a licensed or certified therapist.

3 (m) “Program director” means a person with all of the following:

4 (1) Subject to paragraph (3), a bachelor’s degree, state license,
5 certification, or registration in one of the following disciplines:

6 (A) Nursing.

7 (B) Social work.

8 (C) Psychology.

9 (D) Recreation.

10 (E) Occupational therapy.

11 (F) Physical therapy.

12 (G) Speech therapy.

13 (H) Gerontology.

14 (I) Health administration.

15 (J) Rehabilitation counseling.

16 (K) Public health.

17 (2) Appropriate skills, knowledge, and abilities related to the
18 health, and mental, cognitive, and social needs of the participant
19 group being served by the adult day health center.

20 (3) Two years of related experience in an aging, health, or social
21 service program serving the participant population may be
22 substituted for the educational requirement.

23 (n) “Restorative therapy” means physical, occupational, and
24 speech therapy, and psychiatric and psychological services that
25 are planned and provided by a licensed or certified therapist. The
26 therapy and services may also be provided by an assistant or aide
27 under the appropriate supervision of a licensed therapist, as
28 determined by the licensed therapist. The therapy and services are
29 provided to restore function, when there is an expectation that the
30 condition will improve significantly in a reasonable period of time,
31 as determined by the multidisciplinary assessment team.

32 (o) “Short-term absence” or “short-term vacancy” means an
33 absence or vacancy lasting one month or less, and includes sick
34 leave and vacations. An adult day health care center shall ensure
35 that appropriate staff ~~shall~~ is designated to serve in these positions
36 during the short-term absence or vacancy and that the center’s
37 policies and procedures are specific regarding coverage of
38 short-term absences or vacancies.

39 (p) “Social worker” means a person holding a master’s degree
40 in social work from an accredited school of social work, or a

1 master's degree in psychology or gerontology, a person who is
2 licensed by the California Board of Behavioral Sciences, or a
3 person holding a bachelor's degree in social work with two years
4 experience in a related field, and who is under the supervision, at
5 least two hours per month, of a licensed psychologist, licensed
6 clinical social worker, or an advanced practice mental health
7 registered nurse.

8 SEC. 3. Section 1570.9 of the Health and Safety Code is
9 amended to read:

10 1570.9. In the event of conflict between the provisions of this
11 chapter and the provisions of Chapter 1 (commencing with Section
12 1200), Chapter 2 (commencing with Section 1250), or Chapter 3
13 (commencing with Section 1500) of this division, this chapter shall
14 be deemed controlling. Except as provided in Section 1507, no
15 facility which provides a specialized program of both medical and
16 nonmedical care for the elderly or individuals with disabilities on
17 an outpatient basis shall be licensed as a health facility, clinic, or
18 community care facility under this division, but shall be subject
19 to licensure exclusively in accordance with the provisions of this
20 chapter.

21 Review of the need and desirability of proposals for adult day
22 health centers shall be governed by the provisions of this chapter
23 and shall not be subject to review under Part 1.5 (commencing
24 with Section 437) of Division 1.

25 SEC. 4. Section 1574.5 of the Health and Safety Code is
26 amended to read:

27 1574.5. (a) All adult day health care centers shall maintain
28 compliance with licensing and certification requirements. These
29 requirements shall not prohibit program flexibility for the use of
30 alternate concepts, methods, procedures, techniques, equipment,
31 number and qualifications of personnel, or the conducting of pilot
32 projects, if these alternatives or pilot projects are carried out with
33 provisions for safe and adequate care and with the prior written
34 approval of the state department. This approval shall provide for
35 the terms and conditions under which permission to use an
36 alternative or pilot program is granted. Particular attention shall
37 be given to encourage the development of models appropriate to
38 rural areas. The department shall allow the substitution of work
39 experience for academic requirements for the position of

1 administrator, program director, social worker, or activity
2 coordinator.

3 (b) The applicant or licensee may submit a written request to
4 the department for program flexibility, and shall submit with the
5 request substantiating evidence supporting the request.

6 (c) Any approval by the department granted under this section,
7 or a true copy thereof, shall be posted immediately adjacent to the
8 center's license.

9 (d) (1) The department shall provide written notification to the
10 adult day health care center within 30 calendar days from the day
11 that a request for flexibility, as described in subdivision (a), is
12 received. The notification shall include the department's
13 determination of, and reasons for, approval or disapproval of the
14 request.

15 (2) ~~The~~ (A) *Except for a flexibility request pertaining to core*
16 *services, as described in Section 14550.5 of the Welfare and*
17 *Institutions Code, or medical or nursing services, as specified in*
18 *Section 14550 of the welfare and Institutions Code, the flexibility*
19 *request shall be deemed to be approved if the department fails to*
20 *respond within 30 calendar days.*

21 (B) *The department, as it deems necessary, may rescind a*
22 *flexibility request that is deemed approved in accordance with*
23 *subparagraph (A) at any time after the 30-calendar-day period*
24 *has lapsed. Upon making its determination to rescind a flexibility*
25 *request, the department shall provide written notice to the adult*
26 *day health care center that submitted the request. The notice shall*
27 *include the department's determination of, and the reasons for,*
28 *the rescission.*

29 SEC. 5. Section 14521 of the Welfare and Institutions Code is
30 amended to read:

31 14521. It is the intent of the Legislature in enacting this chapter
32 to establish adult day health care as a Medi-Cal benefit and allow
33 persons eligible to receive the benefits under Chapter 7
34 (commencing with Section 14000) of this part, and who have
35 medical or psychiatric impairments, to receive adult day health
36 care services. It is the intent of the Legislature in authorizing this
37 Medi-Cal benefit to establish and continue a community-based
38 system of quality adult day health care services that will accomplish
39 all of the following:

1 (1) Ensure that elderly persons and individuals with disabilities
2 will not be institutionalized prematurely and inappropriately.

3 (2) Provide appropriate health and social services designed to
4 maintain elderly persons in their own communities.

5 (3) Establish adult day health care centers in locations easily
6 accessible to persons who are economically disadvantaged.

7 (4) Encourage the establishment of rural alternative adult day
8 health care centers that are designed to make adult day health care
9 accessible to elderly persons and individuals with disabilities living
10 in rural areas.

11 *SEC. 6. Section 1578.1 of the Health and Safety Code is*
12 *amended to read:*

13 1578.1. (a) Notwithstanding subdivisions (b) and (c) of
14 Section 1570.7 or any other provision of law, if an adult day health
15 care center licensee also provides adult day ~~care or adult day~~
16 ~~support center~~ *program or Alzheimer's day care resource center*
17 services, the adult day health care license shall be the only license
18 required to provide these additional services. Costs shall be
19 allocated among the programs in accordance with generally
20 accepted accounting practices.

21 (b) The department, unless otherwise specified by the
22 interagency agreement entered into pursuant to Section 1572 shall
23 evaluate the ~~adult day care or adult day support center~~ program
24 services provided for in subdivision (a) for quality of care and
25 compliance with program requirements, concurrent with
26 inspections of the adult day health care facility, using a single
27 survey process.

28 (c) *An adult day health care center licensee shall not be required*
29 *to meet the licensing and certification requirements of the adult*
30 *day health care center program during extended hours, as defined*
31 *in subdivision (h) of Section 1507.7, during which the center*
32 *operates an adult day program or an Alzheimer's day care*
33 *resource center, or both.*

34 (e)

35 (d) The department and the California Department of Aging
36 shall jointly develop and adopt regulations pursuant to Section
37 1580 for the provision of different levels of care under the single
38 adult day health care license.

1 ~~SEC. 6.~~

2 *SEC. 7.* Section 14550 of the Welfare and Institutions Code is
3 amended to read:

4 14550. Adult day health care centers shall offer, and shall
5 provide directly on the premises, at least the following services:

6 (a) Rehabilitation services, including the following:

7 (1) Occupational therapy as an adjunct to treatment designed
8 to restore impaired function of patients with physical or mental
9 limitations.

10 (2) Physical therapy appropriate to meet the needs of the patient.

11 (3) Speech therapy for participants with speech or language
12 disorders.

13 (b) Medical services supervised by either the participant's
14 personal physician or a staff physician, or both, which emphasize
15 prevention treatment, rehabilitation, and continuity of care and
16 also provide for maintenance of adequate medical records. To the
17 extent otherwise permitted by law, medical services may be
18 provided by nurse practitioners, as defined in Section 2835 of the
19 Business and Professions Code, operating within the existing scope
20 of practice, or under standardized procedures pursuant to Section
21 2725 of the Business and Professions Code, or by registered nurses
22 practicing under standardized procedures pursuant to Section 2725
23 of the Business and Professions Code.

24 (c) Nursing services, including the following:

25 (1) Nursing services rendered by a professional nursing staff,
26 who periodically evaluate the particular nursing needs of each
27 participant and provide the care and treatment that is indicated.

28 (2) Self-care services oriented toward activities of daily living
29 and personal hygiene, such as toileting, bathing, and grooming.

30 (d) Nutrition services, including the following:

31 (1) The program shall provide a minimum of one meal per day
32 which is of suitable quality and quantity as to supply at least
33 one-third of the daily nutritional requirement, unless the participant
34 declines the meal or medical contraindications exist that prohibit
35 the ingestion of the meal at the adult day health care center.
36 Additionally, special diets and supplemental feedings shall be
37 available if indicated.

38 (2) Dietary counseling and nutrition education for the participant
39 and his or her family shall be a required adjunct of such service.
40 Dietary counseling and nutrition education may be provided by a

1 professional registered nurse, unless the participant is receiving a
2 special diet prescribed by a physician, or a nurse determines that
3 the services of a registered dietician are necessary.

4 (e) Psychiatric or psychological services which include
5 consultation and individual assessment by a psychiatrist, clinical
6 psychologist, or a psychiatric social worker, when indicated, and
7 group or individual treatment for persons with diagnosed mental,
8 emotional, or behavioral problems.

9 (f) Social work services to participants and their families to help
10 with personal, family, and adjustment problems that interfere with
11 the effectiveness of treatment.

12 (g) Planned recreational and social activities suited to the needs
13 of the participants and designed to encourage physical exercise,
14 to prevent deterioration, and to stimulate social interaction.

15 (h) Transportation service for participants, when needed, to and
16 from their homes utilizing specially equipped vehicles to
17 accommodate participants with severe physical disabilities that
18 limit their mobility. The transportation service may exceed one
19 hour, unless medically contraindicated, in order to ensure regular
20 and planned attendance at the adult day health care center.

21 (i) Written policies and procedures for dealing with natural
22 disaster and emergency situations.

23 ~~SEC. 7.~~

24 *SEC. 8.* Section 14550.5 of the Welfare and Institutions Code
25 is amended to read:

26 14550.5. Adult day health care centers shall offer, and provide
27 directly on the premises, in accordance with the participant's
28 individual plan of care, and subject to authorization pursuant to
29 Section 14526, the following core services to each participant
30 during each day of the participant's attendance at the center:

31 (a) One or more of the following professional nursing services:

32 (1) Observation, assessment, and monitoring of the participant's
33 general health status and changes in his or her condition, risk
34 factors, and the participant's specific medical, cognitive, or mental
35 health condition or conditions upon which admission to the adult
36 day health care center was based.

37 (2) Monitoring and assessment of the participant's medication
38 regimen, administration and recording of the participant's
39 prescribed medications, and intervention, as needed, based upon

1 the assessment and the participant's reactions to his or her
2 medications.

3 (3) Oral or written communication with the participant's
4 personal health care provider, other qualified health care or social
5 service provider, or the participant's family or other caregiver,
6 regarding changes in the participant's condition, signs, or
7 symptoms.

8 (4) Supervision of the provision of personal care services for
9 the participant, and assistance, as needed.

10 (5) Provision of skilled nursing care and intervention, within
11 scope of practice, to participants, as needed, based upon an
12 assessment of the participant, his or her ability to provide self-care
13 while at the adult day health care center, and any health care
14 provider orders.

15 (b) One or both of the following core personal care services or
16 social services:

17 (1) One or both of the following personal care services:

18 (A) Supervision of, or assistance with, activities of daily living
19 or instrumental activities of daily living.

20 (B) Protective group supervision and interventions to assure
21 participant safety and to minimize the risk of injury, accident,
22 inappropriate behavior, or wandering.

23 (2) One or more of the following social services provided by
24 the adult day health care center social worker or social worker
25 assistant:

26 (A) Observation, assessment, and monitoring of the participant's
27 psychosocial status.

28 (B) Group work to address psychosocial issues.

29 (C) Care coordination.

30 (c) At least one of the following therapeutic activities provided
31 by the adult day health care center activity coordinator or other
32 trained adult day health care center personnel:

33 (1) Group or individual activities to enhance the social, physical,
34 or cognitive functioning of the participant.

35 (2) Facilitated participation in group or individual activities for
36 those participants whose frailty or cognitive functioning level
37 precludes them from active participation in scheduled activities.

38 (d) One meal per day of attendance, in accordance with Section
39 54331 of Title 22 of the California Code of Regulations, unless

- 1 the participant declines the meal or medical contraindications exist
- 2 that prohibit the ingestion of the meal.

O